



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0531; FRL-9989-38-Region 4]

Air Plan Approval; North Carolina; Ozone NAAQS Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of North Carolina through the North Carolina Division of Air Quality (NCDAQ) with a letter dated March 21, 2018. The SIP submittal includes changes to the State's air quality rules for ozone to be consistent with the National Ambient Air Quality Standards (NAAQS). EPA is approving these provisions of the SIP revision because the State has demonstrated that these changes are consistent with the Clean Air Act (CAA or Act) and federal regulations.

DATES: This rule is effective [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0531. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9088. Ms. Bell can also be reached via electronic mail at bell.tiereny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires periodic review of the air quality criteria—the science upon which the standards are based—and the standards themselves. EPA's regulatory provisions that govern the NAAQS are found at 40 CFR 50—*National Primary and Secondary Ambient Air Quality Standards*. In this rulemaking, EPA is approving revisions to the North Carolina air quality rules addressing Rule 15A NCAC 02D

.0405, *Ozone*, in the North Carolina SIP.¹ EPA notes that the cover letter was dated March 21, 2018.² Under Subchapter 2D, Section .0405 is amended by updating air quality standards to reflect the most recent ozone NAAQS as well as making textual modifications in the following manner: removing 0.075 parts per million (ppm) and replacing it with 0.070 ppm; deleting “8-hour” and replacing it with “eight-hour”; deleting the word “is” and replacing it with “shall be” and later “shall be deemed”; and deleting Appendix P, which referenced the 2008 Ozone Standard, and replacing it with Appendix U, which references the 2015 Ozone Standard. The SIP submission amending the North Carolina regulations to incorporate the most recent ozone NAAQS can be found in the docket for this rulemaking at www.regulations.gov.

In a notice of proposed rulemaking (NPRM) published on October 1, 2018, (83 FR 49330), EPA proposed to approve revisions to the North Carolina air quality rules addressing Section .0405, *Ozone*, in the North Carolina SIP. Comments on the NPRM were due on or before October 31, 2018. EPA received no adverse comments on the proposed action. EPA is now taking final action to approve the above-referenced revision.

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of North Carolina’s NCDAQ Rule under Subchapter 2D, Section .0405, *Ozone*, state effective January 1, 2018, which revises the ozone standard to be consistent with the 2015 ozone NAAQS. EPA has made, and will continue to make, these materials generally available through

¹ In the table of North Carolina regulations federally-approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02D is referred to as “Subchapter 2D Air Pollution Control Requirements.”

² The submittal was received on April 4, 2018.

www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the ‘For Further Information Contact’ section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.³

III. Final Action

EPA is taking final action and approving the State of North Carolina’s March 21, 2018, SIP submission identified in section I above, because these changes are consistent with the CAA and federal regulations.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

³ *See* 62 FR 27968 (May 22, 1997).

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 21, 2018.

Mary S. Walker,

Acting Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II— North Carolina

2. In § 52.1770, in the table in paragraph (c)(1), revise the entry for “Section .0405” under Subchapter 2D, Section .0400, to read as follows:

§ 52.1770 Identification of plan.

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(c) * * *

(1) EPA Approved North Carolina Regulations

State Citation	Title/Subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
**	**	*	*	*
Section .0400 Ambient Air Quality Standards				
**	**	*	*	*
Section .0405	Ozone	1/1/2018	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication in <u>Federal Register</u>]	
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[FR Doc. 2019-02211 Filed: 2/13/2019 8:45 am; Publication Date: 2/14/2019]